

HBG, STANDARD

U.S. District Court
United States District Court for the Middle District of Pennsylvania (Harrisburg)
CIVIL DOCKET FOR CASE #: 1:06-cv-01777-SHR **SOLICITOR**
Internal Use Only

MAY 15 2007

U.S. PATENT & TRADEMARK OFFICE

QRG, Ltd., a/k/a Quantum Research Group, Ltd. v.
NARTRON CORPORATION
Assigned to: Honorable Sylvia H. Rambo
Case in other court: U.S. District Court, Western District of PA, 2:06-CV-500
Cause: 28:2201 Declaratory Judgement

Date Filed: 09/12/2006
Jury Demand: Both
Nature of Suit: 830 Patent
Jurisdiction: Federal Question

Plaintiff

QRG, LTD.
a/k/a *Quantum Research Group, Ltd.*

represented by **Andrew E. Falsetti**
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Pat. # **4,731,548**
4,758,735
5,796,183
4,831,279
5,087,825

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V.

Defendant

NARTRON CORPORATION

represented by **Mark D. Chuey**
Brooks Kushman P.C.
1000 Town Center

3. Defendant Nartron is located at 5000 North US-131, Reed City, Michigan.

Upon information and belief, Defendant is doing business, has carried out substantial business, and has had other substantial contacts within this judicial district.

4. This Court has jurisdiction over the subject matter of this action under the provisions of 28 U.S.C. §§ 1331, 1332(a)(2), 1338(a), 2201 and 2202, and venue is proper under 28 U.S.C. §§ 1391(b) and (c).

COUNT I – DECLARATORY JUDGMENT

5. Defendant claims to be the owner of United States Letters Patent Nos. 4,731,548 (“the ‘548 Patent”), 4,758,735 (“the ‘735 Patent”), 5,796,183 (“the ‘183 Patent”), 4,831,279 (“the ‘279 Patent”), and 5,087,825 (“the ‘825 Patent”), hereinafter referred to collectively as “the Patents.”

6. Defendant and its primary shareholder, Norman Rautiola, have a reputation for being litigious, and aggressively pursuing even dubious infringement claims.

7. Defendant has repeatedly threatened Plaintiff, both in writing and orally, with patent infringement. Defendant, for example, wrote that Plaintiff’s Form QProx product “is obviously an infringement of our patented technology” and declared that “[w]e intend to pursue this claim of infringement and suggest that you immediately contact our attorney . . .”

8. Defendant’s litigious nature was not diminished by its filing for Chapter 11 bankruptcy. Defendant petitioned the bankruptcy court so Nartron could employ a law firm to prosecute patent infringement actions on a contingency fee basis during its reorganization.

9. Defendant's eventual emergence from bankruptcy enabled Nartron to continue its string of infringement suits, and upon information and belief, Defendant is currently engaged in at least two other patent litigations.

10. Despite Defendant's threats to the contrary, Plaintiff has not infringed any valid claim of the Patents as properly construed.

11. Furthermore, by virtue of the proceedings in the United States Patent and Trademark Office during prosecution of the Patents, and by virtue of the admissions, representations and concessions made by or on behalf of the named inventors and their representatives, Defendant is estopped from construing any claims of the Patents to cover any product made, used, sold, or offered for sale by Plaintiff.

12. Plaintiff further alleges that each of the claims of the Patents is invalid and/or unenforceable and of no legal effect against Plaintiff for failure to comply with the Patent Statute including, but not limited to, 35 U.S.C. §§ 102, 103 and 112 and/or because the alleged inventors and owner of the Patent and/or their attorneys failed to properly discharge their duty of candor and good faith in their dealings with the United States Patent and Trademark Office.

13. By reason of the foregoing, an actual controversy between Plaintiff and Defendant exists as to the alleged infringement, validity, and enforceability of the Patents.

WHEREFORE, Plaintiff prays for the following relief:

1. That the Court enter judgment declaring that Plaintiff's capacitive touch sensor products have not and do not infringe any valid and enforceable claim of United States Letters Patent Nos. 4,731,548, 4,758,735, 5,796,183, 4,831,279, and 5,087,825;

2. That the Court declare that the claims of United States Letters Patent Nos. 4,731,548, 4,758,735, 5,796,183, 4,831,279, and 5,087,825 are invalid and the Patents unenforceable;

3. That the Court enter judgment declaring this case to be exceptional pursuant to 35 U.S.C. § 285; and

4. That the Court award to Plaintiff counsel fees, costs, and all other relief that the Court deems appropriate.

DATED: April 13, 2006

/s/ Andrew E. Falsetti

Gene A. Tabachnick
PA I.D. # 73032
Frederick H. Coley
PA I.D. # 21833
Andrew E. Falsetti
PA I.D. # 90856

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Counsel for Plaintiff
QRG, Ltd.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

QRG, LTD.,)
)
 Plaintiff,) Civil Action No. _____
)
vs.)
)
NARTRON CORPORATION,)
)
 Defendant.)

DEMAND FOR JURY TRIAL

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby demands a jury trial for all issues properly triable before a jury.

DATED: April 13, 2006

/s/ Andrew E. Falsetti _____
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Counsel for Plaintiff
QRG, Ltd.



* N E W D O O C *

SOLICITOR

MAY 15 2007

ATYADM, HBG

U.S. PATENT & TRADEMARK OFFICE

U.S. District Court**United States District Court for the Middle District of Pennsylvania (Harrisburg)****CIVIL DOCKET FOR CASE #: 1:07-cv-00483-YK****Internal Use Only**

The Hershey Company et al v. Vermont Nut Free Chocolates
Company, Inc.
Assigned to: Honorable Yvette Kane
Cause: 15:1051 Trademark Infringement

Date Filed: 03/14/2007
Jury Demand: Plaintiff
Nature of Suit: 840 Trademark
Jurisdiction: Federal Question

Plaintiff**The Hershey Company**

represented by **Harvey Freedenberg**
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TM Reg. # **1,986,822**
2,138,566
2,187,189
1,031,836
1,038,025

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Plaintiff**Hershey Chocolate & Confectionery
Corporation**

represented by **Harvey Freedenberg**
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V.

Defendant**Vermont Nut Free Chocolates**

Company, Inc.

Date Filed	#	Docket Text
03/14/2007	•1	COMPLAINT - N/C to cnsl.; jury trial demanded. (Filing fee \$350, Receipt Number 111000924) (Attachments: # 1 Exhibit(s) A# 2 Exhibit (s) B# 3 Receipt# 4 Civil Cover Sheet)(jc) (Entered: 03/15/2007)
03/14/2007	•2	SUMMONS ISSUED as to defendant. (jc) (Entered: 03/15/2007)
03/15/2007	•3	SPECIAL ADMISSION FORM AND ECF REGISTRATION FORM SENT to Paul C. Llewellyn, Esquire. (jc) (Entered: 03/15/2007)
03/15/2007	•2	DISCLOSURE STATEMENT PURSUANT TO FRCP 7.1. (jc) (Entered: 03/16/2007)
03/16/2007	•3	LETTER addressed to counsel Re: Case Assignment and Procedures. Signed by Judge Yvette Kane on March 16, 2007. (sc) (Entered: 03/16/2007)
04/30/2007	•4	SCEDULING ORDER: - IT IS HEREBY ORDERED that the Case Management Conference is set for 8/1/2007 at 10:00 AM via telephone. Pltf's cnsl shall initiate the call. The Joint Case Mgmt Plan is due by 8/27/07. Signed by Judge Yvette Kane on April 30, 2007. (sc) (Entered: 04/30/2007)
05/01/2007	•5	AMENDED SCEDULING ORDER - CMC is scheduled for 8/1/07 at 10:00am via telephone. The Joint Case Mgmt Plan is due no later than *7/27/07. 4 Signed by Judge Yvette Kane on May 1, 2007. (sc) (Entered: 05/01/2007)
05/10/2007	•6	LETTER - from deputy clerk to Commissioner of Patents and Trademarks re: new case. (jc) (Entered: 05/10/2007)

ORIGINAL

IN THE UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF PENNSYLVANIA

THE HERSHEY COMPANY and
HERSHEY CHOCOLATE &
CONFECTIONERY CORPORATION,

CIVIL ACTION NO. 1:CV-07-483

Plaintiffs,

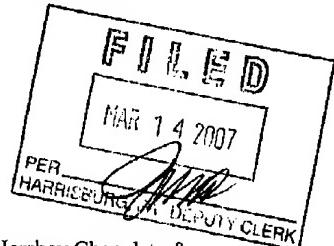
v.

JURY TRIAL DEMANDED

VERMONT NUT FREE CHOCOLATES
COMPANY, INC.,

Defendant.

COMPLAINT



Plaintiff's The Hershey Company ("Hershey Company") and Hershey Chocolate & Confectionery Corporation ("Hershey Chocolate") (hereinafter collectively referred to as "Hershey"), for their complaint against defendant Vermont Nut Free Chocolates Company, Inc. ("defendant" or "Vermont") for trademark infringement, trade dress infringement, false designation of origin, trade dress dilution and unfair competition, plead and allege as follows:

NATURE AND BASIS OF THE ACTION

1. This action is brought by Hershey against Vermont under the Lanham Act, 15 U.S.C. § 1051 *et seq.*, and state law, seeking preliminary and permanent injunctive relief, profits, damages and other relief relating to defendant's knowing adoption and use of a conical product configuration for a chocolate candy product which it sells in a conical, foil-wrapped packaging configuration that infringes and dilutes the well-known, federally registered trade dresses used in connection with Hershey's KISSES® line of products.

2. Hershey Chocolate is the owner and Hershey Company the licensee of the famous, federally registered KISSES® product trade dress, consisting of a conically-shaped chocolate candy (the "Kisses Product Trade Dress") and the famous, federally registered KISSES® packaging trade dress, consisting of a conical foil-wrapped packaging similar in shape to the Kisses Product Trade Dress (the "Kisses Packaging Trade Dress") (together with the Kisses Product Trade Dress, the "Kisses Trade Dresses"). Hershey uses Kisses Trade Dresses in connection with a variety of conical, foil-wrapped chocolate candies offered in silver foil wrapping as well as various other colors. Hershey's KISSES® brand products and the Kisses Trade Dresses have achieved universal fame and monumental sales, and the marks are well known to consumers throughout the United States.

3. The Kisses Trade Dresses have been widely advertised in the United States for decades on television, in print advertising and in other media, and Hershey has made billions of dollars of sales of KISSES® products under the Kisses Trade Dresses throughout the United States. As a result of Hershey's longstanding use and extensive advertising of the Kisses Trade Dresses, the trade dresses have developed strong secondary meaning and are famous among consumers, who have come to associate the Kisses Trade Dresses and their prominent conical shape and foil-wrapped conical shape exclusively with chocolate candy products emanating from Hershey.

4. Defendant has adopted for its "Chocolate Drop" chocolate candy product a conical product configuration and conical foil-wrapped packaging configuration (as in the Kisses Trade Dresses) that infringes the Kisses Product Trade Dress and Kisses Packaging Trade Dress, and unlawfully trades on the goodwill and reputation Hershey has established through its use and promotion of its products and the Kisses Trade Dresses. Defendant's infringement of the Kisses

Trade Dresses is likely to cause consumers, purchasers and others to be confused or mistaken into believing that defendant's conically-shaped, foil-wrapped Chocolate Drop chocolate candy products originate with, are sponsored or approved by, emanate from, or are otherwise associated with, Hershey or the source of the KISSES® brand products. In addition, defendant's use of the nearly identical product configuration and packaging of its chocolate candy products, dilutes the distinctive and famous Kisses Product Trade Dress and Kisses Packaging Trade Dress.

5. Unless such acts of infringement, dilution, unfair competition and false designation of origin are enjoined, Hershey will suffer irreparable injury for which there is no adequate remedy at law.

PARTIES

6. Hershey Company is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 100 Crystal A Drive, Hershey, Pennsylvania 17033. Hershey Company is a major manufacturer and seller of chocolate, confectionery and snack products, including the well-known and very successful line of KISSES® candy products.

7. Hershey Chocolate is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business at 4860 Robb Street, Wheat Ridge, Colorado 80033. Hershey Chocolate is a wholly-owned subsidiary of Hershey Company and is the owner of the KISSES® trademarks and the Kisses Product Trade Dress and Kisses Packaging Trade Dress, which Hershey Chocolate has licensed Hershey Company to use.

8. On information and belief, defendant Vermont is a corporation organized and existing under the laws of the State of Vermont, with an address at 10 Island Circle, Garden Isle, Vermont, 05458. On information and belief, Vermont is engaged in the business of

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Counterclaim Plaintiff

NARTRON CORPORATION

represented by **Mark D. Chuey**
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manufacturing, distributing and selling candy products, including the infringing products at issue in this lawsuit.

JURISDICTION AND VENUE

9. The Court has subject matter jurisdiction over the trademark infringement, trademark dilution, false designation of origin and unfair competition claims pursuant to the Lanham Act, 15 U.S.C. § 1121, and pursuant to 28 U.S.C. §§ 1331 and 1338(a) & (b). The Court has subject matter jurisdiction over the claims arising under state law pursuant to 28 U.S.C. § 1332, because there is complete diversity of citizenship and the amount in controversy exceeds \$75,000, exclusive of interest and costs. The Court also has supplemental jurisdiction over the claims arising under state law pursuant to 28 U.S.C. § 1337.

10. The Court has personal jurisdiction over defendant because, upon information and belief, defendant is present and doing business in the Commonwealth of Pennsylvania either directly or through its agents, and sells or has sold its infringing products in the Commonwealth of Pennsylvania.

11. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391 because defendant is subject to personal jurisdiction in this Judicial District and because a substantial part of the events giving rise to plaintiffs' claims occurred in this Judicial District.

ALLEGATIONS COMMON TO ALL CLAIMS

Hershey and Its KISSES® Trade Dresses

12. For more than a century, Hershey and its predecessors have been among the leading manufacturers of confectionery items in the United States and worldwide.
13. Among Hershey's most famous products is the HERSEY'S KISSES®, or simply KISSES®, chocolate candy, first introduced in 1907, which Hershey manufactures and distributes under the Kisses Product Trade Dress and the Kisses Packaging Trade Dress.
14. The Kisses Product Trade Dress marks are universally recognized symbols of Hershey's goodwill and also are the subject of a number of federal trademark registrations, including:
 - Mark consisting of "the configuration of a conically-shaped candy piece approximately 7/8 of an inch high as measured from the base to the pinnacle and 15/16 of an inch in diameter as measured at the base of the candy piece," U.S. Registration No. 1,986,822. Registered on July 16, 1996 for use in connection with candy;
 - Mark consisting of "the configuration of a conically-shaped candy piece equal to or larger than 7/8 of an inch high as measured from the base to the pinnacle and 15/16 of an inch in diameter as measured at the base of the candy piece," U.S. Registration No. 2,138,566. Registered on February 24, 1998 for use in connection with candy; and
 - Mark consisting of "the configuration of a molded, conically shaped candy piece," U.S. Registration No. 2,187,189. Registered on September 8, 1998 for use in connection with candy.
15. The Hershey's Kisses Packaging Trade Dress marks are universally recognized symbols of Hershey's goodwill and are the subject of a number of federal trademark registrations, including:
 - Mark consisting of "the overall, individual, silver colored wrapping of the goods which takes approximately the conformation of the goods," U.S. Registration No. 1,031,836. Registered on January 27, 1976 for use in connection with solid chocolate; and

- Mark consisting of "the overall individual wrapping of the goods which takes approximately the conformation of the goods," U.S. Registration No. 1,038,025. Registered on April 13, 1976 for use in connection with solid chocolate.

16. Rights in the foregoing Hershey marks, copies of the registration certificates for which are attached hereto as Exhibit A, date back for many decades. Many of the foregoing trademark registrations have achieved uncontested status under the Lanham Act, including Reg. Nos. 1,986,822, 2,138,566 and 2,187,189.

17. While Hershey Company has offered HERSHEY'S KISSES® candy wrapped in different color foil, such as red, green, purple or gold, the most widely known and famous variation of the Kisses Packaging Trade Dress features a silver foil wrapping.

18. Over the years, the Kisses Product Trade Dress and Kisses Packaging Trade Dress have been used extensively not only in connection with candy, but also with various gift items such as candles, paperweights, crystal bowls, clocks and Christmas ornaments. The Kisses Trade Dresses have been the subject of extensive advertising and promotion in a variety of media, including television, print and the Internet, and the HERSHEY'S KISSES® family of products have been highly successful and are sold worldwide. In the United States alone, Hershey sells hundreds of millions of dollars of KISSES® brand products bearing the Kisses Trade Dress annually.

19. By virtue of Hershey's substantial use, sales and promotion of its products using the Kisses Trade Dresses, and by virtue of the non-functional nature of those trade dresses, the marks have become well-known, have become distinctive of Hershey's products, and have come to serve to identify and indicate the source of Hershey's product to consumers and the trade. Hershey has developed for itself and its products substantial goodwill and an excellent reputation among actual and potential purchasers and users of its products.

20. In light of the distinctiveness of the Kisses Trade Dresses, the duration and extent of Hershey's sales, marketing and use of these marks throughout the United States, and the registration of these marks, the Kisses Trade Dresses are distinctive and famous within the meaning of Section 43(c) of the Lanham Act, 15 U.S.C. §1125(c).

21. Hershey has acted with diligence in policing the unauthorized use and misuse by other parties of trademarks similar to or identical to the famous Kisses Product Trade Dress or Kisses Packaging Trade Dress when such uses have come to Hershey's attention.

Defendant's Unauthorized Copying and Use of the KISSES® Trade Dresses

22. Well after Hershey first began using its Kisses Trade Dresses for its conically-shaped chocolate candy products, and after the Kisses Trade Dresses had become famous, defendant commenced manufacturing, distributing and marketing a chocolate candy product featuring a conically-shaped product configuration virtually identical to the Kisses Product Trade Dress. In addition, should there be any doubt as to defendant's intent to mimic and trade upon the Kisses Trade Dresses, defendant's chocolate candy product is individually packaged – like the Kisses Packaging Trade Dress – with silver colored foil wrapping that takes the conformation of defendant's goods. (A photograph showing defendant's infringing product configuration and packaging for its Chocolate Drop product is attached as Exhibit B).

23. On information and belief, defendant markets, distributes and sells its candies in their infringing packaging in the United States, including in the Commonwealth of Pennsylvania. On information and belief, defendant distributes and sells its infringing products to online and traditional retail stores and directly to consumers through other channels of trade, including through catalogs and websites available to consumers in the Commonwealth of Pennsylvania and within this Judicial District.

Likelihood of Confusion and Dilution Resulting from Defendant's Unauthorized Copying and Use of the KISSES® Trade Dress.

24. Defendant has not now and never has been authorized by Hershey or its affiliates to use either the Kisses Product Trade Dress or the Kisses Packaging Trade Dress, or any variation thereof in connection with its products.
25. On information and belief, the defendant's infringing product is sold in similar stores and channels of trade as Hershey's KISSES® products. Both products are in the same general category of chocolate candy, and are sold to many of the same retailers and consumers.
26. Defendant's use of a conically-shaped product configuration and package design confusingly similar to the Kisses Trade Dresses, particularly in conjunction with chocolate candy products, is likely to cause confusion, mistake or deception of purchasers and the consuming public as to the source or origin of defendant's goods. A substantial number of actual and potential purchasers and consumers, upon encountering defendant's products or advertisements bearing defendant's trade dress, are likely to mistakenly believe that defendant's goods originate with, or are licensed, approved, or sponsored by, or otherwise affiliated with or related to, Hershey or its products.
27. Defendant's use of a conically-shaped product configuration and packaging design similar to the Kisses Trade Dresses also has caused and is likely to cause dilution of the famous Kisses Trade Dresses, by lessening their capacity to identify and distinguish products marketed and sold by Hershey under the Kisses Trade Dresses and by tarnishing those famous trade dresses.
28. Defendant's acts are causing and will continue to cause damage and irreparable harm to Hershey and to its valuable reputation and goodwill with purchasers and consumers.

FIRST CLAIM FOR RELIEF
Infringement of Federally Registered Mark
(15 U.S.C. § 1114(1)(a))

29. Plaintiffs repeat and reallege paragraphs 1 through 28 of this Complaint as if fully set forth herein.

30. This claim is for the infringement of a trademark registered in the United States Patent and Trademark Office, pursuant to Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1)(a), as amended.

31. The conical product configuration and foil-wrapped packaging configuration used by defendant are confusingly similar to, and a colorable imitation of, the federally registered Kisses Product Trade Dress and Kisses Packaging Trade Dress, and infringe Hershey's trademark registrations covering those marks. Defendant's unauthorized use of the conical product configuration and its foil-wrapped packaging configuration are likely to cause confusion and mistake and to deceive the public as to the approval, sponsorship, license, source or origin of defendant's products.

32. On information and belief, defendant's acts of trademark infringement have been done willfully and deliberately and defendant has profited and been unjustly enriched by sales that defendant would not otherwise have made but for its unlawful conduct.

33. Defendant's willful and deliberate acts described above have caused injury and damages to plaintiffs, and have caused irreparable injury to plaintiffs' goodwill and reputation, and, unless enjoined, will cause further irreparable injury, whereby plaintiffs have no adequate remedy at law.

SECOND CLAIM FOR RELIEF
Trade Dress Infringement, False Designation of Origin and Unfair Competition
(15 U.S.C. § 1125(a))

34. Plaintiff's repeat and reallege paragraphs 1 through 28 of this Complaint as if fully set forth herein.

35. This claim is for trade dress infringement, false designation of origin and unfair competition in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

36. By its unauthorized use of a conical product configuration and foil-wrapped packaging configuration for its Chocolate Drop candy products, defendant has infringed Hershey's Kisses Product Trade Dress and Kisses Packaging Trade Dress, falsely designated the origin of its products, and competed unfairly with plaintiffs, in violation of 15 U.S.C. § 1125(a).

37. On information and belief, defendant's acts of trade dress infringement, false designation of origin and unfair competition have been done willfully and deliberately and defendant has profited and been unjustly enriched by sales that it would not otherwise have made but for its unlawful conduct.

38. Defendant's acts described above have caused injury and damages to plaintiffs, have caused irreparable injury to plaintiff's goodwill and reputation, and, unless enjoined, will cause further irreparable injury, whereby plaintiffs have no adequate remedy at law.

THIRD CLAIM FOR RELIEF
Trademark Dilution
(15 U.S.C. § 1125(c))

39. Plaintiff's repeat and reallege paragraphs 1 through 28 of this Complaint as if fully set forth herein.

40. This claim is for the dilution of trademarks pursuant to Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c), as amended by the Trademark Dilution Revision Act of 2006.

41. The Kisses Product Trade Dress (the conical product configuration) registered under U.S. Reg. No. 186,828, 1,986,822, 2,138,566, and 2,187,189, and the Kisses Packaging

Trade Dress (the foil-wrapped packaging configuration) registered under U.S. Reg. Nos. 1,031,836 and 1,038,025, are distinctive and famous within the meaning of 15 U.S.C. § 1125(c), and were distinctive and famous prior to the date of defendant's conduct challenged herein.

42. Defendant's conduct, as described above, is likely to dilute and is diluting the distinctive quality of the famous Kisses Trade Dresses in that defendant's challenged trade dresses are likely to create and have created an association between defendant's trade dresses and Hershey's famous Kisses Trade Dresses, which impairs the distinctiveness of those famous marks and lessens the capacity of those famous marks to identify and distinguish products marketed and sold by plaintiffs under those marks.

43. To the extent that defendant's product is viewed as being less than satisfactory to consumers, plaintiffs' business reputation and goodwill and the reputation and goodwill of plaintiffs' famous Kisses Trade Dresses are likely to be and will be tarnished and injured.

44. On information and belief, defendant's acts of trademark dilution have been done willfully and deliberately and defendant has profited and been unjustly enriched by sales that defendant would not otherwise have made but for its unlawful conduct.

45. Defendant's acts described above are likely to cause and have caused injury and damage to plaintiffs' goodwill and reputation and, unless enjoined, will cause further irreparable injury, whereby plaintiffs have no adequate remedy at law.

FOURTH CLAIM FOR RELIEF
Common Law Trademark Infringement and Unfair Competition

46. Plaintiffs repeat and reallege paragraphs 1 through 28 of this Complaint as if fully set forth herein.

47. This claim is for trademark infringement and unfair competition in violation of the common law of the Commonwealth of Pennsylvania.

48. Defendant's use of its infringing conically-shaped product configuration and package design, as described above, constitutes common law trademark infringement, passing off and unfair competition in violation of common law.

49. On information and belief, defendant's acts of common law trademark infringement, passing off and unfair competition have been done willfully and deliberately and defendant has profited and been unjustly enriched by sales that defendant would not otherwise have made but for its unlawful conduct.

50. Defendant's acts described above have caused injury and damages to plaintiffs, and have caused irreparable injury to plaintiffs' goodwill and reputation and, unless enjoined, will cause further irreparable injury, whereby plaintiffs have no adequate remedy at law.

FIFTH CLAIM FOR RELIEF
Trademark Dilution Under
Pennsylvania Cons. Stat. Ann. Tit. 54 Section 1124

51. Plaintiffs repeat and reallege paragraphs 1 through 28 of this Complaint as if fully set forth herein.

52. This claim is for the dilution of trademarks and injury to business or reputation under Pa. Cons. Stat. Ann. Tit. 54 § 1124.

53. The federally-registered Kisses Product Trade Dress (the conical product configuration), and the federally-registered Kisses Packaging Trade Dress (the foil-wrapped packaging configuration) are famous marks in the Commonwealth of Pennsylvania within the meaning of Pa. Cons. Stat. Ann. Tit. 54 § 1124, and were famous prior to the date of defendant's adoption and use of similar trade dresses in connection with sales and advertising for its candy products.

54. Defendant's conduct, as described above, is diluting and will dilute the distinctive quality of Hershey's famous Kisses Trade Dresses, thereby lessening the capacity of those marks to identify and distinguish products marketed and sold by plaintiffs under the Kisses Trade Dresses.

55. To the extent the defendant's product is viewed as being less than satisfactory to consumers, plaintiffs' business reputation and goodwill and the reputation and goodwill of plaintiffs' famous trade dress is being and will be tarnished and injured.

56. Defendant's acts described above have caused injury and damages to plaintiffs, and have caused irreparable injury to plaintiffs' goodwill and reputation and, unless enjoined, will cause further irreparable injury, whereby plaintiffs have no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Hershey prays that this Court enter judgment against defendant as follows:

A. Granting preliminary and permanent injunctive relief restraining defendant, its officers, directors, agents, employees, servants, attorneys, successors, assigns and others controlling, controlled by or affiliated with defendant and all those in privity or active concert or participation with any of the foregoing (including without limitation each distributor or reseller of defendant's Chocolate Drops or other candy products), and all those who receive actual notice by personal service or otherwise:

(1) from using, in writing or in any media, the Kisses Product Trade Dress or any other product configuration confusingly similar to plaintiffs' Kisses Product Trade Dress for any purpose;

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(See above for address)
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ATTORNEY TO BE NOTICED

Robert C.J. Tuttle
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Thomas C. Wettach
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Jill L. Bradley
(See above for address)
ATTORNEY TO BE NOTICED

V.

Counterclaim Defendant

QRG, LTD.

represented by **Andrew E. Falsetti**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Gene A. Tabachnick
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Robert B. Hoffman
Wolf Block Schorr and Solis-Cohen,
LLP
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
09/12/2006	•1	Case transferred in from District of Western District of Pennsylvania; Case Number 2:06-CV-500. Original file with documents numbered 1-17, certified copy of transfer order and docket sheet received., filed by QRG, LTD.. (Attachments: # 1 Civil Cover Sheet # 2 Receipt# 3 Doc. 2-

(2) from using, in writing or in any media, the Kisses Packaging Trade Dress or any other packaging configuration confusingly similar to plaintiffs' Kisses Packaging Trade Dress for any purpose; and

(3) from otherwise competing unfairly with plaintiffs;

B. Ordering that defendant be adjudged to have violated Sections 32, 43(a) and 43(c) of the Lanham Act, 15 U.S.C. §§ 1114, 1125(a) and 1125(c), to have committed acts of trademark infringement, trade dress infringement, false designation of origin, unfair competition and trade dress dilution, and to have caused trademark dilution and injury to business or reputation in violation of Pennsylvania Cons. Stat Ann. Title 54 § 1124;

C. Ordering an accounting of all gains, profits, savings and advantages realized by defendant from its aforesaid acts of trademark infringement and dilution, false designation of origin and unfair competition, and awarding treble profits pursuant to Pennsylvania Cons. Stat Ann. Title 54 § 1123 on the ground that defendant engaged in its wrongful acts with knowledge or bad faith or under other circumstances warranting treble profits;

D. Awarding such damages as plaintiffs shall establish in consequence of defendant's aforesaid acts of trademark infringement and dilution, false designation of origin and unfair competition, together with appropriate interest thereon, including three times the amount found as actual damages by the trier of fact to properly compensate plaintiffs for their damages, pursuant to 15 U.S.C. § 1117(a) and Pennsylvania Cons. Stat Ann. Title 54 § 1123;

E. Ordering defendant to pay for and cause to be disseminated corrective advertising to ameliorate the adverse consequences of defendant's acts of trademark infringement and dilution, false designation of origin and unfair competition, the content, nature, form and extent of which is to be approved by plaintiffs and this Court;

F. Ordering defendant to recall from all chains of distribution all goods, product packaging, product displays, promotional materials, advertisements, commercials, infomercials and other items, the dissemination by defendant of which would violate the injunction herein requested;

G. Ordering defendant to deliver up for destruction any and all goods, product packaging, product displays, promotional materials, advertisements, commercials and other items in the possession, custody or control of defendant which, if sold, displayed or used, would violate the injunction herein granted, and to disable all web sites to the extent they contain any content, the display or use of which would violate the injunction herein requested;

H. Ordering defendant to pay for and cause to be disseminated to each distributor and reseller of defendant's candy products a notice advising said persons of defendant's acts of trademark infringement and dilution, false designation of origin and unfair competition and advising of the issuance and content of the injunction herein requested;

I. Ordering that, pursuant to Section 34(a) of the Lanham Act, 15 U.S.C. § 1116(a), defendant shall serve upon plaintiffs within thirty (30) days after service on defendant of an order granting an injunction, or such extended period as the Court may direct, a report in writing under oath setting forth in detail the manner and form in which defendant has complied with the injunction;

J. Awarding plaintiffs their costs and expenses of this action;

K. Declaring that this is an exceptional case pursuant to 15 U.S.C. § 1117, because of the willful and deliberate nature of defendant's acts of trademark infringement and dilution, false advertising and unfair competition, and awarding plaintiffs their reasonable attorneys' fees;

L. Declaring that defendant committed its wrongful acts with knowledge or bad faith
or under circumstances otherwise warranting attorneys fees under Pennsylvania Cons. Stat Ann.
Title 54 § 1123, and awarding plaintiff's their reasonable attorneys' fees; and

M. Granting such other and further relief as this Court may deem just and proper.

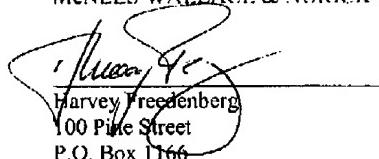
Dated: March ___, 2007

Respectfully submitted,

MCNEES WALLACE & NURICK LLC

Of Counsel:

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Attorneys for Plaintiffs

		<p>Disclosure Statement# <u>4</u> Doc. 3- Summons# <u>5</u> Doc. 4- Motion to Dismiss# <u>6</u> Proposed Order to Motion to Dismiss# <u>7</u> Doc. 5- Brief in Support to Motion to Dismiss# <u>8</u> Exhibit A# <u>9</u> Exhibit B# <u>10</u> Exhibit C# <u>11</u> Doc. 6- Notice of Appearance by Thomas C. Wettach# <u>12</u> Doc. 7- Notice; Response to Motion to Dismiss# <u>13</u> Doc. 8- Motion for Discovery# <u>14</u> Proposed Order for Motion for Discovery# <u>15</u> Exhibit 1# <u>16</u> Exhibit 2# <u>17</u> Exhibit 3# <u>18</u> Exhibit 4# <u>19</u> Exhibit 6# <u>20</u> Exhibit 7# <u>21</u> Exhibit 8# <u>22</u> Exhibit 9# <u>23</u> Exhibit 5 (Motion for Discovery)# <u>24</u> Doc. 9- Notice:Response to Motion for Discovery# <u>25</u> Doc. 10- Brief in Opp. to Motion for Discovery# <u>26</u> Exhibit A (Brief in Opp. to Discovery)# <u>27</u> Exhibit B (Brief in Opp. to Discovery)# <u>28</u> Exhibit C (Brief in Opp. for Discovery)# <u>29</u> Exhibit D- (Brief in Opp. to Discovery)# <u>30</u> Doc. 11- Order Granting Motion for Discovery# <u>31</u> Doc. 12- Brief in Opp. to Motion to Dismiss# <u>32</u> Exhibit A (Brief in Opp. to Motion to Dismiss)# <u>33</u> Exhibit B (Brief in Opp. to Motion to Dismiss)# <u>34</u> Exhibit C (Brief in Opp. to Motion to Dismiss)# <u>35</u> Declaration of Richard T. Ting# <u>36</u> Declaration of Andrew E. Falsetti# <u>37</u> Declaration of Harald Philipp# <u>38</u> Declaration of Chris Bede# <u>39</u> Doc. 3 - Motion for Leave to File a Brief in Reply# <u>40</u> Exhibit A (Motion to File Brief in Reply)# <u>41</u> Doc. 14- Response to Motion for Leave to File a Brief in Reply# <u>42</u> Supplemental Declaration of Richard Ting# <u>43</u> Doc. 15-Order Granting Motion to File Brief in Reply# <u>44</u> Doc. 16- Brief in Reply# <u>45</u> Exhibit A (Brief in Reply)# <u>46</u> Doc. 17- Order Denying Motion to Dismiss. ADDITIONAL ATTACHMENTS ADDED-TRANSFER LETTER AND DOCKET FROM WESTERN DISTRICT OF PA(s) added on 9/13/2006 (crh,). (Entered: 09/13/2006)</p>
09/13/2006	<u>①</u>	SPECIAL ADMISSION FORM SENT to Andrew E. Falsetti, Mark A. Grace & Thomas C. Wettach (crh,) (Entered: 09/13/2006)
09/13/2006	<u>②</u>	Transfer Letter to Counsel (crh,) (Entered: 09/13/2006)
09/20/2006	<u>③</u>	NOTICE:A Case Mgmt Conf has been set for 10/24/2006 @ 9:15 AM before Honorable Sylvia H. Rambo. This conference is by phone and the call is to initiated by the pltf. unless otherwise agreed upon. A joint case mgmnt plan is to be filed n/l/t 10/17/06.(ma,) (Entered: 09/20/2006)
09/21/2006	<u>④</u>	PETITION FOR SPECIAL ADMISSION (PRO HAC VICE) by Andrew E. Falsetti on behalf of QRG, LTD. Attorney Andrew E. Falsetti is seeking special admission. Filing Fee: 25.00 Receipt Number: 111 146455 (Attachments: # <u>1</u> Receipt) (jc) (Entered: 09/21/2006)
09/21/2006	<u>⑤</u>	PETITION FOR SPECIAL ADMISSION (PRO HAC VICE) by Gene A. Tabachnick on behalf of QRG, LTD. Attorney Gene A. Tabachnick is seeking special admission. Filing Fee: 25.00 Receipt Number: 111 146455 (Attachments: # <u>1</u> Receipt) (jc) (Entered: 09/21/2006)
09/21/2006	<u>⑥</u>	NOTICE of Appearance by Robert B. Hoffman on behalf of QRG, LTD. (Hoffman, Robert) (Entered: 09/21/2006)
09/22/2006	<u>⑦</u>	SPECIAL ADMISSIONS FORM APPROVED as to Andrew Falsetti, Esq. on behalf of ORG, LTDSigned by Judge Sylvia H. Rambo on

		09/22/06. (ma,) (Entered: 09/22/2006)
09/22/2006	<u>•8</u>	SPECIAL ADMISSIONS FORM APPROVED as to Gene Tabachnick, Esq. on behalf of QRG, LTD Signed by Judge Sylvia H. Rambo on 09/22/06. (ma,) (Entered: 09/22/2006)
09/29/2006	<u>•9</u>	PETITION FOR SPECIAL ADMISSION (PRO HAC VICE) by Mark D. Chuey on behalf of NARTRON CORPORATION Attorney Mark D. Chuey is seeking special admission. Filing Fee: 25.00 Receipt Number: 111 146486 (crh,) (Entered: 09/29/2006)
09/29/2006	<u>•10</u>	PETITION FOR SPECIAL ADMISSION (PRO HAC VICE) by Robert C.J. Tuttle on behalf of NARTRON CORPORATION Attorney Robert C.J. Tuttle is seeking special admission. Filing Fee: 25.00 Receipt Number: 111 146485. (crh,) (Entered: 09/29/2006)
10/02/2006	<u>•11</u>	SPECIAL ADMISSIONS FORM APPROVED as to Mark D. Chuey, Esq. on behalf of Nartron/Signed by Judge Sylvia H. Rambo on 10/02/06. (ma,) (Entered: 10/02/2006)
10/02/2006	<u>•12</u>	SPECIAL ADMISSIONS FORM APPROVED as to Robert Tuttle, Esq. on behalf of Nartron.Signed by Judge Sylvia H. Rambo on 10/02/06. (ma,) (Entered: 10/02/2006)
10/06/2006	<u>•13</u>	ANSWER to Complaint by NARTRON CORPORATION. (Attachments: # 1 Exhibit(s) A# 2 Exhibit(s) B)(Bradley, Jill) (Entered: 10/06/2006)
10/17/2006	<u>•14</u>	CASE MANAGEMENT PLAN by QRG, LTD.. (Falsetti, Andrew) (Entered: 10/17/2006)
10/18/2006	<u>•15</u>	PETITION FOR SPECIAL ADMISSION (PRO HAC VICE) by Mark A. Grace on behalf of NARTRON CORPORATION Attorney Mark A. Grace is seeking special admission. Filing Fee: 25.00 Receipt Number: 111 146621. (crh,) (Entered: 10/18/2006)
10/18/2006	<u>•16</u>	PETITION FOR SPECIAL ADMISSION (PRO HAC VICE) by Thomas C. Wettach on behalf of NARTRON CORPORATION Attorney Thomas C. Wettach is seeking special admission. Filing Fee: 25.00 Receipt Number: 111 146621. (crh,) (Entered: 10/18/2006)
10/19/2006	<u>•17</u>	SPECIAL ADMISSIONS FORM APPROVED as to Mark Grace, Esq. on behalf of NartronSigned by Judge Sylvia H. Rambo on 10/19/06. (ma,) (Entered: 10/19/2006)
10/19/2006	<u>•18</u>	SPECIAL ADMISSIONS FORM APPROVED as to Thomas Wettach, Esq. on behalf of NartronSigned by Judge Sylvia H. Rambo on 10/19/06. (ma,) (Entered: 10/19/2006)
10/24/2006	<u>•20</u>	ORDER - STANDARD CASE MANAGEMENT TRACK Case placed on the 08/2007 trial list. Cases on this list are scheduled to begin on 9/4/2007 following all j/s starting at 9:30 AM. A date certain may be discussed at the PTC which is set for 8/17/2007 @ 1:30 PM; Discovery due by 2/28/2007. Dispositive Mtns due by 6/20/2007. PTMs due by

		8/10/2007. See order for other ddls. Signed by Judge Sylvia H. Rambo on 10/24/06. (ma,) (Entered: 10/24/2006)
11/01/2006	<u>•21</u>	MOTION to Dismiss Pursuant to Fed.R.Civ.P. 12(b)(1) by NARTRON CORPORATION. (Attachments: # <u>1</u> Certificate of Compliance With Local Rule 7.1# <u>2</u> Proposed Order)(Grace, Mark) (Entered: 11/01/2006)
11/01/2006	<u>•22</u>	BRIEF IN SUPPORT re <u>21</u> MOTION to Dismiss Pursuant to Fed.R.Civ.P. 12(b)(1) filed by NARTRON CORPORATION. (Attachments: # <u>1</u> Declaration of John E. Nemazi# <u>2</u> Exhibit(s) A - G) (Grace, Mark) (Entered: 11/01/2006)
11/16/2006	<u>•23</u>	BRIEF IN OPPOSITION re <u>21</u> MOTION to Dismiss Pursuant to Fed.R.Civ.P. 12(b)(1) filed by QRG, LTD.. (Attachments: # <u>1</u> Affidavit /Declaration of Harald Philipp# <u>2</u> Exhibit(s) 1# <u>3</u> Exhibit(s) 2# <u>4</u> Exhibit(s) 3# <u>5</u> Exhibit(s) 4# <u>6</u> Exhibit(s) 5# <u>7</u> Exhibit(s) 6# <u>8</u> Exhibit (s) 7)(Falsetti, Andrew) (Entered: 11/16/2006)
11/27/2006	<u>•24</u>	REPLY BRIEF re <u>21</u> MOTION to Dismiss Pursuant to Fed.R.Civ.P. 12 (b)(1) filed by NARTRON CORPORATION. (Attachments: # <u>1</u> Exhibit (s) 1)(Grace, Mark) (Entered: 11/27/2006)
11/30/2006	<u>•25</u>	MOTION to Clarify The Case Caption by QRG, LTD.. (Attachments: # <u>1</u> Certificate of Compliance with Local Rule 7.1# <u>2</u> Proposed Order) (Falsetti, Andrew) (Entered: 11/30/2006)
12/01/2006	<u>•26</u>	BRIEF IN SUPPORT re <u>25</u> MOTION to Clarify The Case Caption filed by QRG, LTD..(Falsetti, Andrew) (Entered: 12/01/2006)
12/01/2006	<u>•27</u>	ORDER deferring ruling on Motion to Clarify <u>25</u> pending decision on dft's mtn to dismissSigned by Judge Sylvia H. Rambo on 12/01/06 (ma,) (Entered: 12/01/2006)
02/12/2007	<u>•29</u>	NOTICE by QRG, LTD. of Dismissal of Related Action (Attachments: # <u>1</u> Appendix Eastern District of Michigan Order and Opinion Granting Motion to Dismiss)(Falsetti, Andrew) (Entered: 02/12/2007)
03/02/2007	<u>•30</u>	MEMORANDUM AND ORDER: Denying in part dft's mtn to dismiss <u>21</u> as follows: a) The Court will reserve ruling with regard to the "capacitivetouch sensor products and related components" issue and grant Pltf lv to amend the complaint on or before 4/2/07.b) Mtn is denied in all other respects.2) Pltf's Mtn to Clarify the Case Caption <u>25</u> isGRANTED. The Clrk shall change the case caption as to pltf to read: "QRG, Ltd., a/k/a Quantum Research Group,Ltd., Plaintiff." All future filings shall display this caption. 3) An amended cmo will follow.Signed by Judge Sylvia H. Rambo on 03/02/07 (ma,) (Entered: 03/02/2007)
03/02/2007	<u>•31</u>	AMENDED CASE MANAGEMENT ORDER: J/S and Trial continued to the 10/1/2007 list beginning at 9:30 AM before Honorable Sylvia H. Rambo. Discovery due by 3/30/2007. Dispositive Mts ddl 7/20/2007. PTMs due by 9/7/2007. PTC rescheduled for 9/14/2007 @ 10:00 AM before Honorable Sylvia H. Rambo. See order for other ddls.Signed by Judge Sylvia H. Rambo on 03/02/07. (ma,) (Entered: 03/02/2007)

03/08/2007	<u>•32</u>	AMENDED COMPLAINT against NARTRON CORPORATION, filed by QRG, LTD..(Falsetti, Andrew) (Entered: 03/08/2007)
03/19/2007	<u>•33</u>	ANSWER to Amended Complaint, COUNTERCLAIM against all defendants by NARTRON CORPORATION.(Grace, Mark) (Entered: 03/19/2007)
03/20/2007	<u>•</u>	Correction made to docket sheet to reflect QRG, LTD. as the Counterclaim Defendant with appropriate counsel listed as per the 3/19/07 Amended Complaint and Counterclaim <u>33</u> . (dfm) (Entered: 03/20/2007)
03/23/2007	<u>•34</u>	MOTION to Strike <i>Counterclaim</i> by QRG, LTD.. (Attachments: # <u>1</u> Exhibit(s) A# <u>2</u> Exhibit(s) B# <u>3</u> Exhibit(s) C# <u>4</u> Exhibit(s) D# <u>5</u> Brief in Support# <u>6</u> Proposed Order)(Falsetti, Andrew) (Entered: 03/23/2007)
03/26/2007	<u>•35</u>	BRIEF IN SUPPORT re <u>34</u> MOTION to Strike <i>Counterclaim</i> filed by QRG, LTD..(Falsetti, Andrew) (Entered: 03/26/2007)
03/29/2007	<u>•36</u>	REPLY BRIEF re <u>34</u> MOTION to Strike <i>Counterclaim</i> filed by NARTRON CORPORATION. (Attachments: # <u>1</u> Exhibit(s) A# <u>2</u> Exhibit (s) B# <u>3</u> Exhibit(s) C - Part 1# <u>4</u> Exhibit(s) C - Part 2# <u>5</u> Exhibit(s) D# <u>6</u> Exhibit(s) E# <u>7</u> Exhibit(s) F# <u>8</u> Exhibit(s) G# <u>9</u> Exhibit(s) H# <u>10</u> Exhibit (s) I)(Grace, Mark) (Entered: 03/29/2007)
03/29/2007	<u>•37</u>	CERTIFICATE of Compliance by NARTRON CORPORATION re <u>36</u> Reply Brief,. (Grace, Mark) (Entered: 03/29/2007)
04/12/2007	<u>•38</u>	REPLY BRIEF re <u>34</u> MOTION to Strike <i>Counterclaim</i> filed by QRG, LTD..(Falsetti, Andrew) (Entered: 04/12/2007)
04/23/2007	<u>•39</u>	MEMORANDUM AND ORDER denying pltf's Motion to Strike <u>34</u> .Signed by Judge Sylvia H. Rambo on 04/23/07 (ma,) (Entered: 04/23/2007)
04/23/2007	<u>•40</u>	NOTICE: A scheduling Conference has been scheduled for 5/10/2007 @ 9:00 AM before Honorable Sylvia H. Rambo. This conference is by phone with the call to be initiated by the pltf.Signed by Judge Sylvia H. Rambo on 04/23/07. (ma,) (Entered: 04/23/2007)
05/07/2007	<u>•41</u>	REPLY/ ANSWER to Counterclaim for <i>Patent Infringement</i> by QRG, LTD..(Falsetti, Andrew) (Entered: 05/07/2007)
05/07/2007	<u>•42</u>	MOTION for Partial Summary Judgment on Plaintiff QRG's Declaratory Judgment Claim for Unenforceability of The Five Nartron Patents-In-Suit by NARTRON CORPORATION.(Grace, Mark) (Entered: 05/07/2007)
05/07/2007	<u>•43</u>	STATEMENT OF FACTS re <u>42</u> MOTION for Partial Summary Judgment on Plaintiff QRG's Declaratory Judgment Claim for Unenforceability of The Five Nartron Patents-In-Suit filed by NARTRON CORPORATION. (Attachments: # <u>1</u> Index of Exhibits# <u>2</u> Exhibit(s) A# <u>3</u> Exhibit(s) B# <u>4</u> Exhibit(s) C)(Grace, Mark) (Entered: 05/07/2007)

05/07/2007	•44	BRIEF IN SUPPORT re <u>42</u> MOTION for Partial Summary Judgment on Plaintiff QRG's Declaratory Judgment Claim for Unenforceability of The Five Nartron Patents-In-Suit filed by NARTRON CORPORATION. (Grace, Mark) (Entered: 05/07/2007)
05/07/2007	•45	EXHIBIT A to Brief in Support by NARTRON CORPORATION re <u>44</u> Brief in Support. (Grace, Mark) (Entered: 05/07/2007)
05/07/2007	•46	EXHIBIT PROPOSED ORDER by NARTRON CORPORATION re <u>42</u> MOTION for Partial Summary Judgment on Plaintiff QRG's Declaratory Judgment Claim for Unenforceability of The Five Nartron Patents-In-Suit. (Grace, Mark) (Entered: 05/07/2007)
05/07/2007	•47	MOTION for Partial Summary Judgment that the Nartron Patents-In-Suit Are Not Invalid by NARTRON CORPORATION. (Attachments: # <u>1</u> Proposed Order)(Grace, Mark) (Entered: 05/07/2007)
05/07/2007	•48	STATEMENT OF FACTS re <u>47</u> MOTION for Partial Summary Judgment that the Nartron Patents-In-Suit Are Not Invalid filed by NARTRON CORPORATION. (Attachments: # <u>1</u> Index# <u>2</u> Exhibit(s) A# <u>3</u> Exhibit(s) B# <u>4</u> Exhibit(s) C# <u>5</u> Exhibit(s) D# <u>6</u> Exhibit(s) E)(Grace, Mark) (Entered: 05/07/2007)
05/07/2007	•49	BRIEF IN SUPPORT re <u>47</u> MOTION for Partial Summary Judgment that the Nartron Patents-In-Suit Are Not Invalid filed by NARTRON CORPORATION. (Attachments: # <u>1</u> Exhibit(s) A)(Grace, Mark) (Entered: 05/07/2007)
05/08/2007	•50	CERTIFICATE of Compliance with Word-Count Limit by NARTRON CORPORATION re <u>44</u> Brief in Support. (Grace, Mark) (Entered: 05/08/2007)
05/08/2007	•51	CERTIFICATE of Compliance with Word-Count Limit by NARTRON CORPORATION re <u>49</u> Brief in Support. (Grace, Mark) (Entered: 05/08/2007)
05/08/2007	•	Pursuant to the Local Rules and ECF User Manual, all motions and briefs should be filed simultaneously with their corresponding proposed orders, exhibits and any certificates as attachments to the main documents and not as individual documents. (dfm) (Entered: 05/08/2007)

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

QRG, LTD.,)
)
 Plaintiff,) Civil Action No. _____
)
vs.)
)
NARTRON CORPORATION,) [JURY TRIAL DEMANDED]
)
 Defendant.)

DECLARATORY JUDGMENT COMPLAINT

Plaintiff QRG, Ltd. ("QRG"), by its counsel Reed Smith LLP, hereby alleges the following for its Declaratory Judgment Complaint against Defendant Nartron Corporation ("Nartron"):

1. This is a civil action arising under the provisions of the Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, and the patent laws of the United States, 35 U.S.C. §§ 1 *et seq.*, to declare the rights and legal relations of the parties, an actual justifiable controversy existing between the parties with respect to Plaintiff QRG's free right to make, use, sell, and offer for sale its capacitive touch sensor products and related components which are used in a wide array of products in various industries.

2. Plaintiff is a British corporation with its U.S. office at 651 Holiday Drive, Pittsburgh, Pennsylvania.